

DATE: August 3, 2010

9:28 O'Clock A.M.

JEANNE HICKS, CLERK

BY: Lilly Miller
Deputy

DIVISION: 6
HON. WARREN R. DARROW
CASE NO. P1300CR20081339

JEANNE HICKS, CLERK
By: Lilly Miller, Deputy Clerk
DATE: August 3, 2010

TITLE:

STATE OF ARIZONA,

Plaintiff,

vs.

STEVEN CARROLL DEMOCKER,

Defendant.

COUNSEL:

Yavapai County Attorney
Joseph Butner / Jeffrey Paupore
(For Plaintiff)

John Sears
and
Larry Hammond / Anne Chapman
OSBORN MALEDON, P.A.
2929 North Central Avenue, 21st Floor
Phoenix, AZ 85012
(For Defendant)

HEARING ON:

SEALED HEARING

NATURE OF PROCEEDINGS

COURT REPORTER

Tom Ritter

START TIME: 8:40 a.m.

APPEARANCES: Joseph Butner, Co-Counsel for the State
Jeffrey Paupore, Co-Counsel for the State
Steven DeMocker, Defendant (in custody)
John Sears, Co-Counsel for Defendant
Larry Hammond, Co-Counsel for Defendant
Anne Chapman, Co-Counsel for Defendant

At 8:40 a.m., Court reconvenes in chambers with Counsel Butner, Counsel Paupore, the Defendant, Counsel Sears, Counsel Hammond, Counsel Chapman, Captain David Rhodes, Yavapai County Sheriff's Office, and Rich Robertson, Defense Investigator present. The Court notes that this hearing is sealed, pursuant to the request of Defense Counsel.

Counsel Hammond notes that the State filed two pleadings late last night, a motion for protective order and a response to the motion to dismiss with prejudice. The Court has reviewed those pleadings. The Court advises Counsel that confining the jury to the jury assembly room during these legal discussions needs to be kept to a minimum.

Counsel Hammond discusses the two pleadings filed by the State last night and the State's indication that a separate criminal investigation has been opened [REDACTED]. Counsel Hammond presents argument in opposition to State's motion for protective order. The defense team is not prepared to withdraw from their representation of the Defendant; however, they cannot proceed until the issue of the investigation is resolved. Counsel Hammond suggests that the Court suspend the trial and hold a separate, sealed hearing on the issue of [REDACTED].

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Counsel Butner presents argument in support of the motion for protective order. Counsel Butner discusses why the State seeks a protective order and the State's belief that criminal acts occurred in relation to the funding of the defense team out of the life insurance policy proceeds.

The Court clarifies that it did not order that information regarding the life insurance policy proceeds would not come into the case. The Court **DENIES** the State's request for protective order. The Court directs the State to provide the defense with copies of the Renee Girard interview tapes as soon as possible.

Counsel Hammond would also like copies of any additional documents related to the separate criminal investigation, such as a police report or subpoenas. Counsel Butner reports that all documents related to that investigation have been provided to the defense. Counsel Butner has not seen a police report and notes that the matter was to be referred to another agency outside of the Yavapai County Attorney's Office.

The Court had accepted that there has not been any impropriety on the part of the defense attorneys and the defense attorneys have indicated that they would not be able to continue with the trial while they are defending themselves.

[REDACTED]

Court and Counsel discuss the scheduling of upcoming witnesses. The Court prefers to proceed with the trial today and send the jury home tomorrow in order to address the allegations raised against the defense team.

Counsel Sears does not believe that it is ethically permissible for the trial to go forward while this separate criminal investigation is pending. Counsel Sears asks that a separate hearing be held on the issue before proceeding with the trial.

The Court does not feel that it is necessary to stop the trial because of this issue.

Counsel Hammond presents further argument in support of stopping the trial until the resolution of the separate criminal investigation and [REDACTED]

The Court clarifies that it would not participate in any *ex-parte* hearings regarding [REDACTED] as it would not be appropriate.

Counsel Butner again notes that he believes the criminal investigation [REDACTED]. He reports, however, that [REDACTED] the State Bar. Counsel Hammond would like time to confer with the Defendant and again moves to suspend the trial. Counsel Butner opposes the motion to suspend or continue the trial.

The Court accepts defense Counsel's avowal and **GRANTS** the motion to continue.

[REDACTED]

The Court will direct the jury to call in on Tuesday regarding the trial schedule for next week.

Discussion ensues regarding sending copies of filed documents to Counsels Napper and DuPont, as the State did not copy those attorneys with the pleadings filed last night. The Court clarifies that Counsels Napper and DuPont are to be copied on all pleadings and minute entries.

[REDACTED]

Counsel Hammond requests a transcript of the hearing.

The Court directs the Court Reporter to create a transcript of the hearing and to distribute it to all Parties, including Counsel Napper and Counsel DuPont.

Counsel Chapman requests information regarding the State Bar complaint.

[REDACTED]

END TIME: 9:28 a.m.

cc: Division 6
County Attorney
John Sears
Osborn Maledon, P.A.
Victim Services
Dean Trebesch (Contract Administrator, PD)
Christopher DuPont, Trautman DuPont PLC, 1726 North Seventh St., Phoenix, AZ 85006, Counsel for Victims
Charlotte and Katherine DeMocker
John Napper – Counsel for Renee Girard, witness